

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

December 11, 2007

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No. 06-31324  
Conference Calendar

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Charles R. Fulbruge III  
Clerk

ROBERT HARRISON

Plaintiff-Appellant

v.

RICHARD L STALDER, Secretary, Department of Corrections; CORNEL H  
HUBERT; JAMES D MILLER, Warden; KATHY MCGINNIS, Assistant Warden;  
JERRY THOMAS, Doctor, in Their Individual and Official Capacities

Defendants-Appellees

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:06-CV-2825

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Before REAVLEY, BARKSDALE, and GARZA, Circuit Judges.

PER CURIAM:\*

Robert Harrison, Louisiana prisoner # 86040, has filed a motion for leave to proceed in forma pauperis (IFP) on appeal from the district court's dismissal of his 42 U.S.C. § 1983 complaint against the defendants in their official capacities as barred by sovereign immunity and against the defendants in their individual capacities for failure to exhaust administrative remedies. By filing

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

a motion for leave to proceed IFP on appeal in this court, Harrison is challenging the district court's certification, pursuant to 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a), that his appeal is frivolous and is not taken in good faith. See *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Harrison's motion for leave to proceed IFP does not address the district court's reasons for denying his civil rights claims and for certifying that his appeal is frivolous and not taken in good faith. Accordingly, Harrison has not made a meritorious challenge to the district court's denial of IFP status and has not demonstrated that he will raise a nonfrivolous issue on appeal. See § 1915(a). Harrison's motion for leave to proceed IFP on appeal is denied, and the appeal is dismissed as frivolous. See *Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2.

The dismissal of this appeal as frivolous counts as a strike for purposes of § 1915(g). See *Adepegba v. Hammons*, 103 F.3d 383, 385-87 (5th Cir. 1996). Harrison has accumulated at least two other strikes for purposes of § 1915(g). See *Harrison v. Miller*, No. 2:05-CV-1325 (E.D. La. Mar. 10, 2006) (unpublished); *Harrison v. Miller*, No. 2:03-CV-3194 (E.D. La. Apr. 21, 2004) (unpublished). As Harrison has now accumulated at least three strikes, he is barred from proceeding IFP pursuant to § 1915 while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See § 1915(g).

IFP DENIED; APPEAL DISMISSED; 28 U.S.C. § 1915(g) BAR IMPOSED.